



POLICE DEPARTMENT

July 14, 2022

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In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2021-23591
Police Officer Claudia Mendez	:	
Tax Registry No. 935308	:	
Firearms Suppression Division	:	

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Josh Kleiman
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Samuel Yee, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: John Tynan, Esq.
Worth, Longworth & London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Police Officer Claudia Ban (now Mendez), while assigned to the 108th Precinct, on or about and between March 30, 2021 and April 29, 2021, on nine (9) occasions, reported late to her tours without permission, thereby resulting in improper compensation for approximately three (3) hours and six (6) minutes of straight-time. *(As amended)*

P.G. 203-05 Page 1, Paragraphs 1& 2

PERFORMANCE ON DUTY –
GENERAL REGULATIONS

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT
GENERAL REGULATIONS

P.G. 203-20

AUTHORIZED LEAVE –
GENERAL REGULATIONS

P.G. 206-03

VIOLATIONS SUBJECT TO
COMMAND DISCIPLINE
DISCIPLINARY MATTERS

2. Police Officer Claudia Ban (now Mendez), while assigned to the 108th Precinct, on or about and between March 30, 2021 and April 29, 2021, on twelve (12) occasions, made or caused inaccurate entries in Department records, to wit: CityTime System database. *(As amended)*

P.G. 203-05, Page 1, Paragraph 4

PERFORMANCE ON DUTY –
GENERAL REGULATIONS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on June 14, 2022.

Respondent, through her counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, the Tribunal recommends a penalty consisting of the forfeiture of 15 vacation days.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent has pled guilty to two specifications of time and leave related misconduct – specifically (i) reporting late on nine occasions over a one month period from March 30 to April 29, 2021, totaling 3 hours and 6 minutes and (ii) making 12 inaccurate entries in the Department CityTime system during the same time period. The Advocate explained that only nine occasions of lateness were charged because a 15-minute discretionary grace period was applied for three occasions, but all twelve inaccurate CityTime entries were charged irrespective of how many minutes were involved. (Tr. 5-7, 24-25)

The charged misconduct occurred when Respondent was assigned to the 108 Precinct for 30 days in the spring of 2021. She was assigned as the TS operator for the third platoon, handling 311 calls. She stated she would arrive at 1500 hours and scan in. She acknowledged that on multiple occasions after she would scan in she would leave to park her car or pick up food before her start time on the switchboard at 1530 hours. (Tr. 9-13)

At the hearing, Respondent emphasized that her “job was to be on the TS at 3:30 and that was it.” She believed that all she was obligated to do prior to 1530 was “[j]ust get myself together, change, get my food.” She noted that the command had an issue with providing meal relief, which often led to her being on the desk for eight hours without a break. She stated she was “not once” instructed that it was an issue if she exited the precinct after scanning in or that she should submit a 28 for lost time; she offered that she was actually advised by a supervisor that parking in the area was hard and so she should double park, scan in, and then deal with moving her car. She only became aware that this was an issue when she received a notification to report to IAB and was transferred out of the precinct. (Tr. 13-14, 20-23, 27)

At the hearing, Respondent acknowledged that as an experienced member of service, she is aware that she is supposed to report to work on time and submit lost time requests for time not worked. She stated, “Shame on me ... I’m an adult. I’ve been on the job long enough but at the same time when I’m working with the supervisors and they’re not saying anything, I think I’m doing everything right.” (T. 17, 21)

The Advocate conceded that this matter involved “very little time” and that it was confirmed with the 108 Precinct ICO that there was no deleterious impact on the command due to Respondent’s actions. It was suggested that this is a matter that could have been resolved via a Command Discipline, but for the fact that during the relevant time period in this case Respondent was in the process of resolving another matter involving multiple charges of time abuse (Tr. 26, 32-34). In that case, Respondent forfeited 45 vacation days and 149 hours and 55 minutes from her time and leave balances, agreed to restitution, pension calculation adjustments, and was placed on dismissal probation, after pleading guilty to:

- (i) reporting late or departing early on approximately 124 occasions, resulting in compensation for approximately 101 hours in straight time and six hours of overtime;
- (ii) causing inaccurate entries in the Sign-In/Sign-out Log and CityTime on approximately 153 occasions;
- (iii) submitting inaccurate overtime slips on 14 occasions;
- (iv) failing to timely submit 13 overtime reports;
- (v) being absent from her assignment on approximately 27 occasions while engaging in personal business, resulting in improper compensation for approximately 41 hours and nine minutes;
- (vi) consuming alcoholic beverages while on-duty on six occasions;
- (vii) engaging in intimate conduct with a supervisor on multiple occasions while on-duty;

- (viii) repeatedly using her Department smartphone for personal business; and
- (ix) making inaccurate or misleading statements during a Department interview.

This prior case encompassed misconduct that occurred between May 2018 and December 2019. The matter was ultimately resolved on July 15, 2021, approximately three months after the misconduct in the instant matter. Respondent has been on dismissal probation since that date.

The Department did not dispute that Respondent's tour of duty began at 1500 hours, yet her assignment did not begin until 1530 hours. It is also not in dispute that Respondent used the first 30 minutes of her tour of duty on the charged occasions to attend to matters that were personal. There is no evidence that Respondent was ever instructed that this practice was inappropriate. Respondent's command admitted that the manner in which she spent the first 30 minutes of her tour of duty had no effect on the operation of the command. Indeed, there is some evidence, as testified to by Respondent, whose testimony was forthright and plausible, that her use of this time to eat and park, among other things, was encouraged.

Nevertheless, Respondent wrongfully made inaccurate entries in a database tracking her time at work. Furthermore, given her prior disciplinary matter, Respondent should have been on notice that such conduct, even if tolerated by her command, constituted misconduct.

At the hearing, the Department did not specifically reference the adjustment of time and leave balances or restitution to address the instant misconduct, nor does the Tribunal believe that it should be imposed under these circumstances. There is no reason to believe that Respondent was seeking to steal time. Rather, she engaged in a practice that she believed, and the record did not contradict, was sanctioned by her command.

Instead, the Department has recommended a forfeiture of 15 vacation days. The Tribunal finds that while this constitutes the presumptive penalty under the Disciplinary Guidelines for the

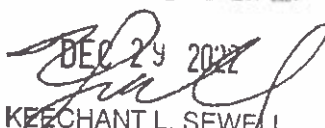
misuse of time, that in this matter, which the Department avers would have otherwise been resolved by a Command Discipline, it constitutes an aggravated penalty. The Tribunal agrees that a forfeiture of 15 vacation days adequately addresses both the misconduct and Respondent's prior disciplinary history.

Respectfully submitted,



Josh Kleiman
Assistant Deputy Commissioner Trials

APPROVED



DEC 29 2022
KEECHANT L. SEWELL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER CLAUDIA MENDEZ
TAX REGISTRY NO. 935308
DISCIPLINARY CASE NO. 2021-23591

Respondent was appointed to the Department on July 1, 2004. On her three most recent annual performance evaluations, she received a 4.5 overall rating of “Extremely Competent/Highly Competent” for 2021 and was rated “Meets Standards” in 2018 and 2020.

In 2021, Respondent forfeited 45 vacation days and 149 hours and 55 minutes from her time and leave balances, agreed to pay restitution of \$77.97, agreed to a deduction of six hours from her pension calculation and was placed on one-year dismissal probation after pleading guilty to (i) reporting late or departing early on approximately 124 occasions, thereby being improperly compensated for approximately 101 hours in straight time and six hours of overtime, (ii) causing inaccurate entries in the Sign-In/Sign-out Log and CityTime on approximately 153 occasions, (iii) submitting inaccurate overtime slips on 14 occasions, (iv) failing to timely submit 13 overtime reports, (v) being absent from her assignment on approximately 27 occasions while engaging in personal business, resulting in improper compensation for approximately 41 hours and nine minutes, (vi) consuming alcoholic beverages while on-duty on approximately six occasions, (vii) engaging in intimate conduct with a supervisor on multiple occasions while on-duty, (viii) repeatedly using her Department smartphone for personal business, and (ix) making inaccurate or misleading statements during a Department interview. In connection with that case, Respondent has been on dismissal probation since July 15, 2021.

For your consideration.

Josh Kleiman
Assistant Deputy Commissioner Trials